THE CARCERAL COLONY AND ENTANGLEMENT OF GENDER: THEORIZING WOMEN IMPRISONMENT IN KENYA

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Abstract:

In the second half of the nineteenth century, a certain dissatisfaction becomes apparent in the records of British concerned themselves with crime and its punishment in colonial Kenya. Broadly speaking, there was a growing perception that there were serious problems with the manner in which women entered the labor market and crime associated with it and on the other hand, how the colonial state punished female offenders. While some observers questioned whether imprisonment in colonial jails was particularly punishing, others expressed alarm that such incarceration was actually counterproductive: that instead of reforming and rehabilitating women criminals, British prisons contributed to their further demoralizations. One is that the most basic mechanism through which long-term female convicts were to be reformed were vocational training and a comprehensive segregation: the isolation of the offender not only from families, non-criminals and free society, but also from men, other female criminals, the idle, the sick, and assorted other contaminating influences. These processes were expected to transform convicted women into productive, orderly and modest members of the laboring class. Such sentiments contributed to the philosophy of the female prison in Kenya. This study, therefore, focuses its attention on the history of Langata women prison, the only female corrective institution in Kenya.

Keywords: carceral, gender, imprisonment, theorizing, punishment

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1. Introduction

In Kenya, historical studies on the subject of crime and punishment and especially on women has received inadequate attention. While there exist many studies on integrated prisons in Kenya there is a paucity of such works in relation to prisons established exclusively for women. Even in these integrated prison studies, the place of women and especially their needs as inmates have received very little attention. Women constitute a vulnerable group in prisons due to their gender. This negligence has therefore left a lacuna in women studies in general and Kenya's historiography in particular. Therefore, this study intends to fill this gap by examining the history of Langata maximum women prison, the only women prison to have been established in Kenya.

2. Women Incarceration in Colonial and Post-Colonial Kenya

Prisons in Kenya were important tools in the advancement of the colonial agenda. Bernault argues that the prison "*did not emerge (only) after European conquest had imposed full control over colonies but served as a crucial tool to carry on colonial war against Africans. Prisons played an important role in physical confinement and in the constitution of subjectivities of colonial subjects. The criminal justice system developed by the colonial government was to preserve the regime in power not that it evolved as a consequence of the needs of citizens. The post-independent regimes continued with the previous excesses to maintain political and social control*".

Bernault[2] also notes there was inextricable link between the development of prison practices and the European colonial project in Africa. Prisons in Kenya were introduced after the advent of British rule.

The introduction of prisons by the colonialist in Kenya was meant to play a role in the expansion and consolidation of colonial authority. Colonial systems destroyed pre-colonial criminal justice systems and redefined the roles of women in society. In pre-colonial Kenya, there existed strong bonds of moral solidarity engendered on customary law through the council of elders, religion, and family. Violation of these moral bonds was ground for inflicting punishment. Crimes in pre-colonial Kenya were those acts, which violated indigenous people's "*collective conscience*". They were violations of the fundamental moral codes which were held sacred, and they provoked punishment for this reason. During this era, punishment was viewed as an important process that enhanced social cohesion, religious ritual and family life.[3]

In criminal circles, women were not visible because they occupied domestic spheres. All societies, both across space and time, have had institutions to order social relations and control anti-social behavior. Crimes have been as old as a mankind; therefore, societies designed their methods of dealing with those that committed crimes.

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[2] F. Bernault (ed) *A History of Prison and Confinement in Africa* (Portsmouth, 2003). p.23.
[3] Emile, D. *The Division of Labour in Society* (New York, 1933). p.23.

The work of Malinowski[4] and Diamond[5] suggests that human behaviour was often regulated prior to the waves of Europeans colonization which peaked in the late Nineteenth Century and swept much of the world. The systems used to resolve disputes under traditional justice fora included negotiations, mediations, conciliation, settlement, consensus approach and restoration. These mechanisms focused on restoring peace and maintaining social bonds.[6] In these societies' women had their own specific social institutions that dealt with women affairs as will be discussed later. There were no prisons to deal with women crimes. These institutions were responsible for making and administering customary laws and policies that bound society members. They enforced discipline and obedience and they ensured continuity of social cohesion from one generation to another.[7]

Colonialism was a new phenomenon in Kenya from 1895 when Kenya was declared a British protectorate. The penetration of the alien state into Kenya after the Berlin conference of 1884 ultimately led to the destruction of the indigenous structures of control and governance. The colonialists concentrated on economics, social and political control, domination and exploitation for fulfilling their own vested interests.[8] During the colonial state, punishment was severer than the pre-colonial period because it was geared to exploitation and it was through legal punishment that the colonialists met their exploitative goals. The British form of law introduced in Kenya in 1895 was designed to safeguard the well-being and the survival of the British socially, politically and economically. Sentencing and punishment philosophy in this era seems to have been structured in accordance with the general form of law shaped by the colonialists. The punishment was seen as a necessary "equivalent" to the offence, so that justice consisted of some kind of equity or fair trading which exchanged one harmful action for another that equaled it.[9]

In 1902, the colonial government invited European settlers, whose arrival made the government make decisions that had far-reaching impact on social, economic and political lives of the Africans. Africans were forced into reserves and confined in villages so that they could offer labour to the settlers. Loss of land forced Africans to seek wage employment and taxation, which will later be discussed, was the genesis of conflicts between Africans and the colonialists. The victims of this policy were women. This was the beginning of the conflict between the Africans and the whites.[10] Colonial policies such

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[4] B. Malinowski, *Crime and customs in Savage Society* (London, 1926). p.2.

[5] A. S. Diamond, *The Evolution of Law and Order* (London, 1951) see also A.S. Diamond, *Primitive Law, Past and Present* (London, 1971) see also Durkheim,

[6] FIDA Kenya, *Traditional Justice Systems in Kenya: A Study of communities in Coast Province of Kenya* Op.Cit p.2

[7] B. A. Ogot, *Kenya Before 1900 (*Nairobi, 1976).p.9.See also D.A.L.A Government in *Themes in Kenyan History* (ed) W. R. Ochieng', pp.88-97

[8] S. Kiwanuka, *From colonialism to Independence; A reappraisal of colonial policies and African Reaction*, (Nairobi,1973). p.16.

[9] F. Frantz, *Towards the African Revolution (Political Essays)* (New York, 1964) p.1

[10]Ochieng' and Maxon, p.66.

as forced taxation, forced labour, land alienation was faced with massive political agitation from women. The climax of this agitation was the Mau Mau uprising and the establishment of detention camps such as Langata Prison in Kenya. Women fought dual oppression, on one side against colonialism and on the other against the patriarchy of their community. They were active in the formation and running of political associations in the colonial period and rejected men's attempt to relegate them to second fiddle in this arena. For instance, more and more women became enchanted with their status and reached a turning point in 1930.[11]

The colonial government policies led to the emergence of transactional sex. Oppressive laws of land alienation, forced taxation and congestion, housing conditions in Nairobi engendered a social context. This led many women to migrate to the city turning to transactional sex. Due to migrant labour in Nairobi in the 1920s and the economic depression led to dis-employment of labour. Small bands of labourers wandered from place to place looking for work in towns, vagrancy and burglary increased in 1923. Europeans proposed that the provision of the matters and servant ordinances was applied to squatters, thereby defining them even more definitely as laborers rather than all labour tenants, and, for example, subjecting them criminal penalties for desertion from employment, and eliminating magisterial control over the wage terms of the contract.[12]

In the late 1930s, there was introduction of two key processes of system change, urbanization and upward social mobility among African wage-earners. Though employment did not increase in the late 1930s urbanization of the workforce did. The African population of Nairobi had doubled between 1923 and 1931, From 12,500 to 26,765 Kikuyu formed 55% of Nairobi's workforce. Reports from Nairobi complained of the increasing numbers of unemployed natives living in the town for no ostensible reasons. The unemployed were volatile elements, joining in many mass protests. Strikes always had the potential of becoming city-wide, Mass urban strikes were a prominent feature of labour protest in Kenya, occurring in 1934, 1947, 1950, 1956 and 1957.[13]

The government resorted to oppressive measures such as police and mandatory evictions. Women were engaged in transactional sex as a way of amassing wealth and property. Women were also involved in illegal brewing and bootlegging. Kibera slum developed its reputation as an "*easy outlet for liquor and women who practiced prostitution*".[14] Transactional sex in Kibera and other parts of Nairobi came to be associated with syphilis. Medical authorities became alarmed when the number of syphilis cases in Kenya more than doubled in the late 1930s. They surveyed 645 African domestic servants in Nairobi

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[11] C. A. Presley, *Kikuyu Women, the Mau Mau Rebellion and Social Change in Kenya* (London, 1992). p.69.

[12] S. Stitcher, *Migrant Labour in Kenya: Capitalism and African Response 1895-1975* (Nairobi, 1982). p.95

[13] See also R.M.A Van Zwanenberg, *Colonial Capitalism and Labour in Kenya 1919-1939.*

[14] T. Parson, *Kibra is our blood, The Sudanese military legacy in Nairobi Kibera location 1902-1968,* The international Journal of African Historical Studies 30(1). p.87-122.

and surrounding areas and found that 230 (36%) of them were infected with syphilis. This statistic likely further denigrated the women who engaged in transactional sex.[15]

The use of migrant labour in Nairobi increased steadily after the second world war. Until independence in 1963, there was a great advance in female participation in formal employment. An attempt to "clean up" Nairobi begun as early as 1907 and 1909 by arresting and repatriating women into reserves with no success. All women arrested were found to be suffering from venereal diseases. During the colonial period, prostitution provided an income which sustained women in towns, and they lived independently. In Nairobi and other towns prostitutes illegally brewed and sold beer to supplement their incomes. In 1926, the African section of Pumwani, Nairobi, there were houses owned by women, many of which were purchased with funds gained through prostitution. By 1952 when the state of Emergency was declared employment of women in Nairobi had increased rapidly. Labour department reported an increasing demand for females between 1955 and 1957, and there was a shortage of women willing to take the jobs.[16] The increasing number of women in Nairobi had alarmed the colonial state, so much that there was a need to establish a women prison.

During the Operation Anvil, all Africans in Nairobi were taken to temporary barbed wires enclosures ringed with barbed wires where employment identity cards were used to determine tribal affiliation. The hardcore Mau Mau women that went through Langata detention camp after the screening process were detained at Kamiti and Gatamayu detention camp. Kamiti detention camp was the main site of women incarceration. Approximately 8,000 women were detained by the colonial state. Due to the influx of detainees in Kamiti, the colonial state established the second women detention map at Gatamayu in 1958. The move was aimed at the British struggle to contend with the hardcore Mau Mau women in the final years of the emergency period. The increasing number of women who participated in Mau Mau perplexed the colonial administration. A lot of tension was created between legal, political and medical officials. The colonial state classified Mau Mau women as insane. It was a strategy of covering up the abuses in Kamiti and Gatamayu detention camps. Female detainees faced trouble and atrocities while in the camp. For example, the British secretary of state for colonies received complaints from them. On 13 February 1959, Sir Alan Lennox Boyd wrote a letter to the then governor of Kenya, Evelyn Barring informing him of the complains.[17] They narrated their experiences at Gatamayu detention camp. Gatamayu was only three miles from Kamiti. They complained that they were screened and beaten by force.

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[15] J.M. Gachuhi, *Veneral diseases and society Discussion* paper no 178 Nairobi Kenya institute of Development Studies University of Nairobi, 1973.

[16] S. Stitcher, *Women and the Labour Force in Kenya 1895-1964 A Discussion paper No. 258* (Nairobi, 1977), p.10 See also J. Bujra *Women Entrepreneurs of Early Nairobi* Canadian Journal of African Studies.

[17] The National Archives of the UK (TNA): Public Record office(PRO) London, Foregin and Commonwealth office (FLO) 141/6324/193/4 "All women detainees to Gordon walker 26 Nov 1958 in Lockhart Unsound" Minds and Broken Bodies. The detention of hardcore Mau Mau women at Kamiti and Gatamayu detention camps in Kenya 1954-1960.

Hardcore Mau Mau women created a great challenge to the colonial state in Kenya between 1954 and 1960. The creation of Kamiti, Gitamayu and later Langata women prison was one of the robust initiatives to deal with the problem. Colonial ideologies shaped the treatment of women in the decolonization period in Kenya. The Mau Mau were taken to Langata screening camp, where they were interrogated before they were sent remote detention camps. Langata screening camp was the temporary destination for many Mau Mau suspects who were rounded up during the operation. Many people underwent a difficult separation of family, many being taken off in lorries for more screening at Langata. By the end of Operation Anvil and its mop ups, Britain security forces had sent over 20,000 Mau Mau suspects for further screening at Langata camp. By May of 1954, there were over 24,000 Mau Mau suspects in Langata detention camp.

The year 1959 proved crucial to the Prison Service in Kenya. The Service found itself faced with the Hola massacre in which eleven Mau Mau Emergency detainees were killed, allegedly in the hands of the prison administration. A committee was appointed to investigate the Hola massacre and advise on the future of the Prison Service. While these changes were significant, questions as to whether such decisions were driven by a feminist agenda or simply a historical development, is still unclear. This study, therefore, intends to answer this pertinent question. These developments challenge historians to re-examine history of women and factors that prompted the Kenyan state to opt for the segregation of gender in the incarceration process. Langata women maximum prison was declared a women's prison for detention of women prisoners in 1960 and the prison chaplains and catechists became permanent staff members. In the same year M.P. Rochfort was appointed the first woman superintendent of the prison. Today, Langata women maximum prison is the biggest and only women Prison in Kenya. This uniqueness is worthy of study.[18]

It is observed that, gender-specific needs of female offenders are largely neglected by researchers and policymakers in general and this study aims to make a contribution in this regard.[19] There are only a handful of studies available in the literature that specifically address the special needs of female offenders and how female offenders differ from their male counterparts. This study provides a significant contribution to existing research and establishes both the working documents on prisons in Kenya.[20]

To understand the development of Langata Prisons in Kenya the concept of power and knowledge and Discipline and punishment and by Michel Foucault will also be used. Foucault's concept is an agreement of Dialectic of domination- by Bruce Berman. The principle is a description and explanation of the various apparatus of control and domination used by colonialist in Kenya to advance their capitalist ideologies. Bruce

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[18] P.A. Rosendo, *Historical Review of the Kenya prison service from 1911 to 1970* (Nairobi, 1972). p.21.

[19] See Handbook on women and imprisonment United Nations, (New York, 2014). p.2 see also P. Carlen *Why Study Women's imprisonment or anyone else's An indefinite article, in prison context* edited by R.D. King and Maguire Oxford UK clarendon, see also Vetten L. *The imprisonment of women in Africa in Human Rights in Africa prisons* edited by J. Sarkin Cape Town South Africa HRSC 134-154.

[20] L. Feder, and Henning K, *A Comparison of Male and Female dually arrested domestic violence offenders, Violence and victims* 20(2): 153-171.

Berman in *Control and crisis in colonial Kenya, the Dialectic of domination* argues that the colonial state was shaped by the contradiction between maintaining effective political control with limited coercive force and ensuring the profitable articulation of metropolitan and settler capitalism with African societies. Colonial state was a structure of power and instrument of domination. Colonial state comprised the forces of evil and the forces of good and this caused contradiction. The colonial state clearly played an instrumental role in the political economy of colonialism. Prisons were one of the administrative apparatus of domination used by the British to control the economy. The colonial state is seen as the coercive instrument of the metropole subduing and controlling the indigenous population. It has to be recognized that it accomplished this with an apparatus of force. Mau Mau fighters and other Nationalist were arrested and deported to far places that acted as isolation from the rest of the society.[21]

The colonialist formed a class of its own which was superordinate, all strategies employed by superordinate individuals or group call forth counter-strategies on the part of the subordinate. Strategies of control and dialectic of control in the capitalist societies can be accounted for in the capability of the state administrators to influence even the most intimate features of daily activity. The reason for this expansion of deliberate control and for the growth of the bureaucratic agencies (prisons) through which it is carried out lie within the most fundamental characteristic of capitalistic production: the unrelenting drive to establish and sustain the conditions for the accumulation of profit through the ever more intricate, minute and predictable command over the process of production. Prisons in the colonial spheres were agents of political domination. The penetration of the capitalist mode of production destroyed the indigenous structures. These structures were thus subject to powerful forces of transformation.[22] Colonial administrators introduced prisons so as to advance their ideology of paternalistic authoritarianism: an ideology of domination.

Anthony Giddens in Bruce Berman observes, all social systems of any duration involve an 'institutional mediation of power…domination is expressed in and through the institutions that represent the most deeply embedded continuities of social life but in the context of any collectivity association or organization of domination is expressed as modes of control whereby some agents seek to achieve and maintain the compliance of others…relatively stable forms of control (comprise) types of rule. All types of rule rest upon the institutional mediation of power. But channel this through the use of definite strategies of control that naturally always depend in substantial degree upon the form of domination within which they are invoked.[23]

Giddens in his book *The Nation- State and violence,* posits two levels of domination that correspond respectively to the structural determination and instrumental agency. The deepest and most determined level of domination is contained or institutionally mediated within fundamental institutions of social structure inherited from earlier

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[21] B. Berman, *Control and crisis in colonial Kenya, The Dialectic of Domination* (Nairobi,1990). p.24

[22] Ibid, p.25.

[23] Giddens A, *The Nation-State and violence,* (Cambridge, 1985). pp.8-13.

generations, which comprise the taken as given framework of daily life within which humans pursue their individual goals or projects. At the same time, this institutional level is reproduced and modified by more self-conscious collectivities or organizations through deliberate "*strategies of control*." Colonial government used Prisons as institutions of domination so as to control the Kenyans and seek compliance of them so that they would advance their agenda This principle clearly analysis the tools of domination set up by the British government in the social set up during the colonial era and continuity in the post-independent regimes. The British government was a type of bureaucratic organization that generated a high level of power.[24]

Michel Foucault views will guide our understanding of prisons as structures that express power. In his book *power and knowledge*,[25] he says that the actors use power as an instrument of coercion. Power is manifest through the systems and structures set by the actors. He says that power could be observed in the administrative systems such as prisons, schools, and mental hospitals. This understanding is vital in this research because prisons were established by the colonialists as administrative apparatus to enforce the colonial power over the African population. He further observes that the systems of prisons of surveillance make people behave. Foucault was attracted by the mechanism of prisons surveillance, systems for the administration and control of the population. He says that power inheres in institutions themselves rather than in the individuals that make those institutions function his argument is very vital for us to understand prisons as institutions of power and power is part of the institutions.[26]

In his other work *Discipline and Punish* examining prisons was concerned not with their internal functioning, but rather, he explained, his method "going behind the institution and trying to discover in a wider and more perspective what we can call the technology of power. Therefore, Foucault was not bothered if prison discipline did not function as planned, and he had little interest in creating a historical balance sheet of what was intended and what was actually achieved." The institution, he studied Foucault, observed that the task of each government is to calculate "how to keep a type of criminality within socially and economically acceptable limits and around an average that will be considered as optimal for a given social functioning. He views on punishment as part of larger matrices of colonial coercion.[27]

On the other hand, it is important to examine the sociology of social control as developed by feminist scholars. The insights provide much valuable understanding and method for this study and sociological directives for a study of women's imprisonment. Most important, it reminds us that the social control of women takes many forms. As Carol Smart points out, it may be "*internal or external, implicit or explicit, private or public,*

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[24] Ibid, 16.

[25] For detailed information on the concept of prisons as systems of surveillance, power and control as applied in colonial Africa see Jeremy w. Crampton, *Space, knowledge and power* (Stuart Elden, 2007). pp, 170-172.

[26] M. Foucoult gives a detailed information on prisons as instruments of power as used by colonialist evident from www.powercube.net; forms of power. power is everywhere visited on 27/03/2015 at 3pm

[27] M. Foucault, *Discipline and Punish* (Landon, 1977), p.33

ideological or repressive." Indeed, the "*primary sources*" of such control are "*outside or even beyond, judicial influence*" they are located within "seemingly innocuous social processes"[28] From this perspective, a "*model for the study of the structural coercion of women*" must be built outside traditional criminological approaches to the question of women, crime, and punishment. The point of departure must be "*women's material conditions*" and the first issue is to "*find a language in which women's experiences can be communicated and understood*."

Once we have a language, we can develop an analysis which shifts the focus from an etiological concern with female offenders to an understanding of "*the coercion of privacy*" ? a coercion that restrains women to the point where we can speak of them "living their lives in a private prison"[29] The concept of the "private prison" is an important one for understanding the restraints placed on women's lives all along the "freedom" Imprisonment continuum. It suggests that a historical analysis of the social control of women should shift away from the formal custodial institutions to informal sites of social control. Yet although Joann is you, Joann is me/Our prison is the whole society [30] we must avoid the absurdity of infinite relativism: we must not forget that incarcerated women are more coerced than those outside the walls. We need to remember, too, that the history of women's imprisonment in Australia is still waiting to be written. It is, however, crucial to realize that the history.

Although her approach is not historical, Carlen thus provides many points of departure for a study of the history of women's imprisonment in Australia. Carlen's directives for a more broadly gauged analysis of criminalized women are echoed by Frances Heidensohn. In her book, Women and Crime[31] she claims that we have to "*step outside the confines of criminological theories altogether*" if we want to understand women and crime from a feminist perspective. Where once she argued for a reintegrated study of male and female crime within a new critical criminology, Heidensohn now advocates an "autonomous" approach along the lines taken by Pat Carlen. But rather than explore what this "autonomous" approach might look like, let us take note of the other inviting conceptual terrain for a history of women's imprisonment.

3. Conclusion

Imprisonment in Kenya has been a growing phenomenon and large numbers of vulnerable people find themselves in a state of serial incarceration. Women in particular have experienced rapidly expanding imprisonment rates since end of Second World War. The argument in this article is to understand colonial and contemporary penal cultures and in particular its severity and excess in relation to women, as such the need for

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[28] Smart and Smart, *Silence: Feminism and the Limits of History*." C. Pateman and E, Gross, (eds.), Feminist Challenges: Social and Political Theory. Sydney: Allen and Unwin 1978: 1-2.

[29] Dahl and Snare, 1978.

[30] Freedman, 1981:1, "*How to Do What We Want to Do: Thoughts about Feminist Methodology*." Bowles and Duelli Klein (eds.).

[31] Frances Heidensohn, *Women and Crime* (London, 1985), pp. 162-200.

understanding within a broader context of the strategies and techniques of colonial patriarchy in particular why social groups appear to become the targets of penal excess. This work has reviewed some theoretical trajectories on factors in imprisonment in colonial and post-colonial Kenya with particular focus on women. It argued here that structures on the lived realities of the punishment experience and shaped the consequences of a prison life. The rates of confinement for men and women are put in context through a discussion of how the politics of imprisonment—drove up the rates of incarceration for both men and women.

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